



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.11.2017

CORAM:

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**THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE**

W.A.(MD)No.1384 of 2017
and
C.M.P(MD)No.9957 of 2017

Mohamed Ashik : Appellant/Petitioner

.vs.

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore,
Chennai - 600 008.

2. The Chairman,
Recruitment Sub-Committee,
Madurai Centre and
Deputy Inspector General of Police,
Madurai Range,
Madurai.

: Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.14747 of 2017, dated 17.08.2017

Prayer in WP(MD). 14747/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus to call for the records pertaining to the impugned order dated 01.08.2017 in C.No.R2/150/2017 passed by the 2nd respondent and quash the same as illegal and consequently direct the respondents to conduct a fresh physical measurement test for the petitioner (Enrolment Number 2428281) for the post of Grade-II constable, Grade II Jail Warders and Firemen in the Tamil Nadu Uniformed Services Recruitment Board 2017.

For Appellant : M/s.R.Venkatesan

For Respondents : Mr.B.Pugalendhi

Addl.Advocate General

Assisted by Mr.A.K.Baskarapandian

Spl. Govt.Pleader

**JUDGEMENT**

[Judgement of the Court was made by M.VENUGOPAL, J.]

The Appellant has preferred the instant Writ Appeal before this Court as an 'aggrieved person' as against the order, dated 17.08.2017 made in W.P(MD)No.14747 of 2017, passed by the Learned Single Judge.

2.Heard both sides. No counter is filed on behalf of the respondents.

3.By consent, the main Writ Petition itself is taken up for final disposal.

4.Earlier, the Learned Single Judge while passing the impugned order in W.P(MD)No.14747 of 2017, dated 17.08.2017 (filed by the Appellant/Petitioner), at paragraph 4 to 6 had observed the following:

'4.In view thereof, when the matter was earlier listed before this Court, this Court directed the respondents to produce the video recordings taken at the time of measurement.

5.As per the said direction, the learned Additional Advocate General appearing for the respondent Police Department produced the video recordings and the same was played before me in the presence of the learned counsel on either side and also the petitioner.

6.A perusal of the same would go to show that the petitioner's chest is found to be 80.1c.m., normally and during expansion it is found to be 87.6c.m. As the petitioner did not meet the required chest level before expansion, i.e., 81 c.m., he is rightly found disqualified by the respondent Police Department.'
and ultimately dismissed the Writ Petition without costs.

5.Assailing the dismissal order of the Writ Petition in W.P (MD)No.14747 of 2017, dated 17.08.2017, the Learned Counsel for the Appellant submits that the plea of the Appellant/Petitioner was neither discussed or considered by the Learned Single Judge, at the time of passing the impugned order in the Writ Petition.

6.Advancing his arguments, the Learned Counsel for the Appellant proceeds to take a plea that non-selection of the Appellant/Petitioner is arbitrary and illegal one besides in negation of Article 14 of the Constitution of India. The Learned Counsel for the Appellant in his Memorandum of Grounds in the Writ Appeal had taken a stand that the contentions raised in the Writ



Petition are not discussed in the impugned order of the Writ petition relating to G.O.(Ms)No.60, dated 22.01.2015 and in reality, the Appellant would get the benefit, which provides that all physical measurements shall be rounded off to the nearest Centimetre or nearest 0.5 centimeter.

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7.The Learned Counsel for the Appellant strenuously projects an argument that as per the Second Respondent, the Appellant's normal Chest was 80.1 centimetres and during expansion, it is found as 87.6 and the basic required chest expansion is 81-86 centimetres. In short, according to the Appellant, the Writ Petition has been dismissed without there being any relevant discussion thereto. The Learned Counsel for the Appellant comes out with a plea that the Learned Single Judge had failed to consider that the Appellant had sufficient skill and qualification for recruitment to the post of Police Constable in the Respondents selection process. Lastly, it is the plea of the Appellant that his chest expansion was not measured in a proper manner and the Writ Petition was dismissed, without filing the counter of the Respondents.

8.Per contra, it is the submission of the learned Special Government Pleader appearing for the Respondents that as per notification of the Tamil Nadu Uniformed Services Recruitment Board, Public Selection of all Common Recruitment of Grade-II Police Constables, Grade-II Jail Warders and Fireman for the year -2017, it is made very clear that for all candidates ordinarily chest measurement must be minimum of 81 cms and during chest expansion, there must be minimum expansion of 5 cms.

9.By means of reply, the Learned Counsel for the Appellant adverts to the instructions relating to Common Recruitment of Grade-II Police Constables, Grade-II Jail Warders and Firemen for the year 2017 on PMT, ET, PET and Certificate Verification and points out that S.No.35 under the caption 'Disqualification of Candidates' certain guidelines have been issued. That apart, by making special reference to Clause 6 of S.No.35 urges before this Court that the Disqualification Slips should be signed by the Chairman of the Sub-Committee in-charge of the event in which the candidate is rejected and also that he /she must verify that the reason for rejection and the details given in the Disqualification Slip match with those on the Coding Sheet. Besides the above, the Learned Counsel for the Appellant brings it to the notice of this Court that the Disqualification Slip, dated 1.8.2017 issued by the Tamil Nadu Uniformed Services Recruitment Board, Egmore, Chennai does not mention about the reasons for disqualification of the Appellant and as such, the said slip bristles with infirmity in Law.

10.The Learned Counsel for the Appellant seeks in aid of the decision of the Division Bench of this Court in **W.A(MD)No.955 of 2010 between R.Elayaraja .vs. The Director General of Police , Ramarajar Salai, Chennai-4 and three others, dated 23.12.2010**, whereby and where-under at para 4 to 6, this Court had observed as



follows:

"4. When these facts were brought to the notice of the learned Single Judge, the learned Single Judge without adverting to the chest measurement in the presence of Mr. N. Ilango, counsel for the respondent, Mr. R. Venkatesan, counsel for the Petitioner, Mr. K. Sugumaran, Additional Deputy Commissioner, Sub-Committee, Member-II, Madurai and Mr. K. Gopalakrishnan, Inspector of Police, Othakadai Police Station as though the appellant has not got required chest measurement, dismissed the Writ Petition holding that the appellant failed to succeed in the second measurement. Aggrieved over the same, the present Writ Appeal is filed.

5. When the matter was taken up for consideration, the appellant submitted that the re-measurement was taken in the presence of Registrar(Judicial) noted in the normal position 88.5cm and on expansion 96 cms with a difference of 7.5 cms. Since this measurement was accepted to be final measurement by all four persons mentioned above in the presence of Registrar(Judicial), we are of the view the dismissal of the Writ Petition by the learned Single Judge by holding that the appellant failed in the chest measurement test, is un-sustainable.

6. Hence, by setting aside the impugned order, we direct the respondents to permit the appellant to participate in the other physical efficiency as he has satisfied the requirement of chest measurement test."

11. The Learned Counsel for the Appellant also produces a copy of the Amendment to Special Rules for the Tamil Nadu Special Police Subordinate Service Rules(G.O(Ms)No.60, Home (Pol.IX), 22nd January 2015, wherein, it is mentioned as under:

AMENDMENT

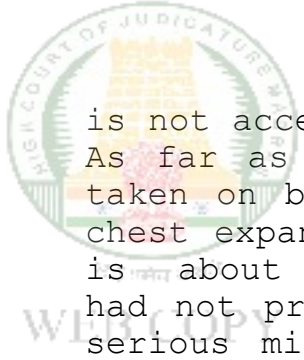
"In the said Special Rules, in rule 14, in sub-rule(a), in the tabular column, in column(2) against the entry, '3)(categories) 2,4,5 & 6' In column(1), in the first paragraph, after the proviso the following proviso shall be added, namely:--

"Provided further that all the physical measurements shall be rounded off to the nearest centimeter or the nearest 0.5 centimeter, as the case may be."

12. Although the Learned Additional Advocate General appearing for the respondents submits that the amendment to Special Rules for the Tamil Nadu Special Police Subordinate Service Rules vide G.O.Ms.No.60, Home(Pol.IX), 22nd January 2015 refers to height measurement is rounding off and the same is applicable to the Appellant/Petitioner's present case on hand.

<https://hcservices.ecourts.gov.in/hcservices/>

13. However, the plea take on behalf of the Respondents 1 and 2



is not accepted by the Learned Counsel for the Appellant/Petitioner. As far as the present case is concerned, even though a plea is taken on behalf of the Learned Counsel for the Appellant that his chest expansion was 80.5 and 87.6 cms and his real chest expansion is about 81 to 86 cms and that the officials of the Respondents had not properly measured his chest expansion which resulted in serious mis-carriage of justice, this Court on going through the materials placed on record and also after perusing the order of the Learned Single Judge, dated 17.08.2017 in W.P(MD)No.14747 of 2017, dated 17.08.2017 comes to an irresistible conclusion that the Appellant/Petitioner had not met the required chest measurement of 81 cms before chest expansion and as such, he had been disqualified by the Respondents, about which, this Court does not find any infirmity in the eye of Law.

14. Viewed in that perspective, the Writ Appeal is devoid of merits. In fine, the Writ Appeal is dismissed without costs. Resultantly, the order passed by the Learned Single Judge in W.P(MD) No.14747 of 2017, dated 17.08.2017 is affirmed by this Court, for the reasons assigned in this Writ Appeal. Consequently, connected Civil Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

To

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai - 600 008.
2. The Chairman,
Recruitment Sub-Committee,
Madurai Centre and
Deputy Inspector General of Police,
Madurai Range, Madurai.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 85506

VSN

TE/SKN-RSK/SAR-III : 13/11/2017 : 5P/4C

JUDGEMENT MADE in
W.A. (MD) No.1384 of 2017 and
C.M.P (MD) No.9957 of 2017
03.11.2017